

Court of Appeals, State of Michigan

ORDER

People of MI v Anthony Young

Docket No. 264313

LC No. 05-006692-01

Brian K. Zahra
Presiding Judge

Michael J. Talbot

Karen Fort Hood
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The Court orders that defendant appellee's motion to remand is GRANTED to the extent that the Court, pursuant to MCR 7.216(C)(7), REVERSES the trial court's orders that grant defendant appellee's motion to suppress and dismiss the case and REMANDS this matter to the trial court for an evidentiary hearing on defendant's motion to suppress. The trial court erred in deciding the motion to suppress on the basis of the preliminary examination transcript without the parties' agreement to this procedure. *People v Talley*, 410 Mich 378, 382; 417 NW2d 537 (1987); *People v Kaufman*, 457 Mich 266, 276; 577 NW2d 466 (1998). Because the trial judge made a credibility determination of the police officer based only on the preliminary exam transcript, this case shall be assigned to a new judge on remand.

The Court does not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 22 2006

Date

Sandra Schultz Mengel
Chief Clerk